IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Bail Appl..No. 7641 of 2007()

LP.255/2004 of J.M.F.C., KODUNGALLUR
CRIME NO.220/96 OF MATHILAKAM POLICE STATION

.....

PETITIONER: 9TH ACCUSED:

NAVAS, S/O.MOIDEEN, KODENDAKARAN,
KOPRAKKALAM, KAIPPAMANGALAM VILLAGE,
THRISSUR DISTRICT.

BY ADV. SRI.SAIJO HASSAN

RESPONDENTS: STATE:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7641 OF 2007

Dated this the 5th day of December, 2007

ORDER

The petitioner is the 9th accused. He, along with the co-accused, faces indictment for allegedly committing the offences punishable, inter alia, under Sec.302 of the IPC. The case against the co-accused was committed. They have already been tried, found not guilty and acquitted, it is submitted. The petitioner did not appear before the committal court. His case was not hence committed to the Court of Session. The same was pending as committal proceedings. Consequent to the non-appearance of the petitioner, the same has now been transferred to the list of Long Pending Cases. Coercive processes issued by the learned Magistrate are chasing the petitioner now.

2. The petitioner submits that he is absolutely innocent.

His absence earlier was not wilful or deliberate. He had secured employment abroad and did not know the proceedings initiated against him. He is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with

the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

Nan/

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P.S. to Judge